

generally trapezoidal surface. Thus, the Office Action concludes that the added limitation constitutes new matter.

This rejection is respectfully traversed. Claim 36 specifies a respiratory mask having a forehead support and a forehead pad including a base portion. The base portion defines a first surface and a second generally trapezoidal surface opposite the first surface to face a user's forehead. In addition, independent claim 37 is directed to a forehead pad assembly comprising at least two forehead pads, each pad comprising a generally trapezoidal base portion to face a user's forehead. Independent claim 65 is directed to a respiratory mask having a forehead support, and a forehead pad that includes a base portion, a first surface and a generally trapezoidal second surface to face a user's forehead. Claim 67 is directed to a forehead pad comprising a base portion defining a first surface and a generally trapezoidal second surface to face a user's forehead. Accordingly, all of the claims are directed to a forehead pad comprising a base portion having a first surface and a second generally trapezoidal surface (claims 36, 65 and 67), or a generally trapezoidal base portion (claim 37).

This subject matter is clearly supported in the original specification. For example, original Figures 7, 38 and 41 clearly show that each pad of the pad set has a generally trapezoidal shape or surface. Although it is not believed necessary, the Examiner is invited to contact the undersigned at the telephone number listed below to request authorization for an Examiner's Amendment to specify that the base portion or the second surface of the base portion has a generally trapezoidal shape. Again, this is clearly shown in at least Figures 7, 38 and 41. Moreover, the most basic definition of a trapezoid is a quadrilateral having two parallel sides. Thus, the forehead pad shown in Figures 7, 38 and 41 is generally trapezoidal since it has four

sides (left side, right side, upper side and lower side) which form a quadrilateral which includes two (generally) parallel (left and right) sides.

Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 36-42 and 65-67 were rejected under 35 U.S.C. §103(a) over Lang (DE 100,45183). This rejection is respectfully traversed.

As acknowledged in the Office Action, the difference between Lang and claims 36, 37, 65 and 67 is that Lang teaches generally circular forehead support pads versus the generally trapezoidal surface or shape recited in independent claims 36, 37, 65 and 67. According to the Office Action, because the present disclosure (paragraph 113) specifies that the base portion can be of any shape, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the base portion surface generally trapezoidal. This conclusion is respectfully traversed since it improperly relies on Applicants' own disclosure to reject the claims. This portion of the disclosure is not indicated as being in the prior art. Moreover, it is incumbent on the Patent Office to either 1) produce a reference showing the trapezoidal surface or shape and provide motivation why one of ordinary skill in the art would have combined that unknown reference with Lang or 2) provide a reason why the skilled artisan would have modified Lang's circular pads to be generally trapezoidal (without reliance on Applicants' disclosure).

In addition, the trapezoidal shape as set forth in independent claims 36, 37, 65 and 67 includes several advantages. For example, the trapezoidal shape helps to avoid the eye region more effectively, and in particular, avoids touching the patient's eyebrows, the trapezoidal shape has better aesthetics as they are less bulky, thus increasing the chances for patient compliance, and/or the pads more comfortably conform to the curvature of the forehead of the patient.

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Furthermore, where the pads are connected together with a connector (claims 39-41), the pads lend themselves to a smooth transition to the tie that joins the pads, e.g., the arrangement shown in Figure 34.

Reconsideration and withdrawal of the rejection are respectfully requested.

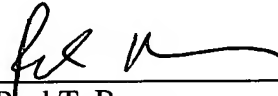
In view of the above remarks, Applicants respectfully request that the rejections be withdrawn and that the application be passed to allowance.

Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, she is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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